

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES,

Petitioner,

v.

MISCELLANEOUS ACTION NO. 5:09-mc-00043

GERARD O'SHEA and
KATHNELL O'SHEA,

Respondents.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on the Internal Revenue Service's (IRS) Petition for judicial enforcement of administrative summonses issued to Gerard and Kathnell O'Shea. The summonses seek documents and records pertaining to two trusts, the G and K Trust and the Genesis Trust, allegedly administered by the O'Sheas. By Memorandum Opinion and Order dated September 9, 2009, the Court found the summonses to be enforceable in part notwithstanding the O'Sheas' assertion of the Fifth Amendment privilege against self-incrimination. On October 13, 2009, the Court afforded the O'Sheas the opportunity to demonstrate that certain documents are subject to the marital or attorney-client privileges by filing a privilege log and copies of the documents for the Court to review in camera. The Court's October 13 Order also notified the O'Sheas that failure to comply with its directions would be deemed a waiver of any privileges.

The O'Sheas have not filed a privilege log or documents as directed. Their response, in its entirety, is as follows:

Gerard & Kathnell O'Shea declare the following under penalty of perjury:

1. We were married in Orange County California on March 24, 1964, and are still married to this date. Attached is a true and correct copy of our marriage certificate.
2. We have no trust documents referred to in the IRS summons, including items identified/listed in Nos. 5 and 6.

Executed at Lewisburg, West Virginia on October 22, 2009.

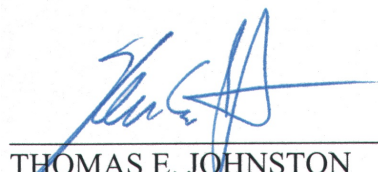
(Docket 13.)

In accordance with this Court's Order of October 13, 2009, and for the reasons noted above, the O'Sheas have waived any claims of marital or attorney-client privilege with respect to any documents responsive to the IRS's summonses, should any such documents exist.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: October 28, 2009



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE